

be necessary to the functioning of the Federal information centers.

"(c) There is hereby authorized to be appropriated \$7,000,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for each succeeding fiscal year for carrying out the purposes of this section."

(b) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by inserting immediately after the item pertaining to section 111 the following new item:

"Sec. 112. Federal information centers."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 95-1129), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE AND SUMMARY OF THE ACT

The purpose of S. 3259 is to establish legislative authority for a national system of Federal information centers.

Federal information centers provide direct help to citizens with questions about Federal Government services, programs and regulations. They provide better access to the Federal Government, cut redtape and reduce paperwork for many citizens who merely seek basic information about Government.

The Federal Information Centers Act authorizes the Administrator of the General Services Administration (GSA) to establish a nationwide network of Federal information centers. The centers are to provide the public with information about programs and procedures of the Federal Government.

The Administrator is further authorized to prescribe necessary regulations for managing the information centers. A sum of \$7 million for fiscal year 1980 and such sums as may be necessary for succeeding fiscal years are also authorized to finance the program.

NEED FOR LEGISLATION

Federal Information Centers were first proposed by President Johnson in 1965. The first pilot center was opened in Atlanta, Ga., the following year. The GSA has developed a 12-year experience with this demonstration program.

Presently, information centers are located in 38 major metropolitan areas. An additional 47 cities are connected by toll-free tie-lines. (See appendix A.) In fiscal year 1977 more than 8 million inquiries were answered. Half of the Nation's population have the advantage of this service. While every segment of society has access to the centers, the principal beneficiaries were poor people least informed and knowledgeable about Government.

In early 1977, the Office of Management and Budget (OMB) conducted a study of the information centers program. (See appendix B for executive summary of study.) The OMB found that the centers operate at a high degree of responsiveness to the substantial volume and diversity of questions they receive.

The OMB further found that the centers could be improved through strengthened overall management, better information system design, improved support facilities and expansion of the population served.

The study concluded that before improvements should be undertaken, legislative authorization and separate appropriations should be sought from the Congress in order to better assure central control and accountability for center operations. Presently 17 agencies reimburse the GSA for the costs of the centers.

Permanent establishment of Federal information centers was also recommended by the Federal Paperwork Commission because of the frustration the Commission found

many citizens experienced in just trying to obtain simple information about Government.

S. 3259 will meet the need to provide a permanent legislative basis for greater central control and accountability for center operations. The bill will also enable the program to expand and meet the needs of citizens in 22 States who do not have information centers today.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are two other bills that are cleared for action by unanimous consent. They are Calendar Orders No. 1099 and 1105. I ask unanimous consent that the Senate proceed to consideration of those two orders.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, Mr. President, there is no objection. These items are cleared on our Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ISSUANCE OF SUBSTITUTE TREASURY CHECKS

The bill (H.R. 13087) to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 95-1176), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

H.R. 13087 would authorize the Department of the Treasury to issue substitute checks to replace checks which have been received by the payee and subsequently lost, stolen, destroyed, mutilated, or defaced, except as the Secretary of the Treasury may require.

Under existing law, before a substitute check may be issued for an amount in excess of \$200, the payee must agree to indemnify the United States by formally promising to repay the Treasury, in the event that both the original and the substitute checks are lawfully cashed.

Enactment of H.R. 13087 would eliminate this requirement, unless the Secretary of the Treasury determined that an undertaking of indemnity was necessary to protect the interests of the United States.

BACKGROUND

CURRENT LAW

Section 3646(a) of the Revised Statutes, as amended (31 U.S.C. 528(a)), requires that an undertaking of indemnity be obtained by the Secretary of the Treasury before a substitute Treasury check can be issued to replace an outstanding Treasury

check where the check has been lost, stolen, destroyed, mutilated or defaced. In the undertaking, the claimant agrees to reimburse the Federal Government if both the original and substitute checks are cashed.

Section 3646(b) (31 U.S.C. 528(b)) lists five exceptions to the requirement for an undertaking of indemnity, but nevertheless authorizes the Secretary of the Treasury to require such an undertaking, even in the excepted situations if he deems it essential to the public interest.

Among the exceptions are loss of a check while in the custody of the Government prior to delivery to the payee, checks issued for \$200 or less, and claims filed by the United States, a State, certain other political subdivisions, a foreign government, or a Federal Reserve bank.

EXPERIENCE UNDER CURRENT LAW

The Treasury Department has advised the committee that the current requirement that undertakings of indemnity be obtained unnecessarily delays for weeks, and even months, the settlement of valid claims from members of the public for relatively small amounts of money.

The Treasury Department advised further that at present, substitute check claims not included in the five exceptions in subsection (b) constitute between 7 and 8 percent of the claims processed by the Department. The undertakings which are obtained are generally without sureties, private or corporate, because of the small amounts involved. Therefore, the undertaking of indemnity provides only the promise of the claimant to reimburse the amount of any overpayment caused by the cashing of both the original and substitute checks.

Technically, the undertakings have some significance in view of the fact that they obligate the claimant to refund the proceeds of the checks whether or not he or she has received an overpayment. However, the Treasury states that they are not of practical significance because the Department does not as a rule seek reimbursement from a claimant who has not participated in the negotiation of the original check. Further, the Department does not use the undertakings as a legal basis for taking action against a claimant in the event of a double payment, but instead relies solely upon the grounds of the overpayment itself.

The Treasury Department advises that of the exceptions appearing in subsection (b), only that which excepts checks issued for \$200 or less is of concern, since the other exceptions are of limited applicability and the Department does not now and would not in the future use Treasury's discretionary authority to require bonds of indemnity in the situations described in the other exceptions.

The \$200 or less exception was established in 1945 when it was raised from \$50. In the intervening 30 years, the dollar amount of checks has escalated dramatically. In a survey taken in August 1975, 1,500 checks were chosen at random, and 41.4 percent of them exceeded \$200. Thus, what was, in 1945, a small percentage of checks has now become nearly a majority. The same survey revealed that 2.5 percent of the checks exceed \$500, 1.3 percent exceed \$750, and 0.9 percent exceed \$1,000.

The Department concluded that these figures indicate the need to eliminate the requirement for undertakings of indemnity, except in the discretion of the Secretary of the Treasury, rather than to raise the amount of the exception provided. The Department concluded further that a newly established amount would soon become outdated if check amounts continue to escalate.

NEED FOR LEGISLATION

In requesting enactment of this legislation, the Treasury Department has stated that (1) a total of \$18,000 is expended an-

S 14978

CONGRESSIONAL RECORD — SENATE

September 12, 1978

nually for clerical time and supplies in the procurement of undertakings of indemnity for a relatively small number of cases; (2) settlement actions on over 12,000 valid claims per year are unnecessarily delayed for long periods of time because of the indemnification requirement; (3) a 1978 survey revealed that over 50 percent of Treasury claims were for checks in excess of \$200—a dollar limit originally set in 1945 when claims in this amount were relatively rare; (4) since the Federal Government receives no benefit whatever from the undertakings of indemnity, the administrative burden involved in handling them is unwarranted; and (5) since the Secretary of the Treasury has the authority under section 3646(d) of the Revised Statutes to issue regulations, if the subject bill is enacted, the Secretary would exercise that authority to establish the criteria for undertakings of indemnity.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CMDR. EDWARD WHITE RAWLINS

The Senate proceeded to consider the bill (H.R. 1445) conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Comdr. Edward White Rawlins, U.S. Navy (retired), which had been reported from the Committee on the Judiciary with an amendment on page 2, beginning with line 15, insert the following:

Sec. 3. If such court renders judgment in favor of such claim, such court may award, in addition to any amount awarded for retroactive active-duty pay and allowances and retirement pay, reasonable litigation costs, and a reasonable attorney's fee in an amount not to exceed five percent of the amount awarded for retroactive active-duty pay and allowances and retirement pay.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1182), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to waive applicable limitations, lapses of time or laches and to confer jurisdiction upon the U.S. Court of Claims to hear, determine and render judgment upon the claim of Comdr. Edward White Rawlins, U.S. Navy (retired) of Washington, D.C., for retroactive active-duty pay and allowances and retirement pay for his nonpromotion to the grade of captain, such nonpromotion allegedly being the probable consequence of improper and inequitable actions within the Department of Navy. The bill, as amended, stipulates that any suit instituted under its provisions must be brought within 1 year of the date of enactment and that its enactment does not constitute an inference of liability on the part of the United States.

FACTUAL SUMMARY

Comdr. Edward White Rawlins, U.S. Navy, retired, [hereinafter, "claimant"], now 76, was graduated from the U.S. Naval Academy on June 4, 1924. Effective the following day, he was appointed to the grade of ensign, U.S. Navy, and served continuously on active duty until July 1, 1951, when he was retired in the grade of commander upon his own application, pursuant to the provisions of section 6, act of February 21, 1946, 60 Stat. 26, 27, as amended 34 U.S.C. 410(b) (1952); see 10 U.S.C. 6323 (1970). During his active service, claimant received the following promotions: Lieutenant (junior grade), June 5, 1927; Lieutenant, June 30, 1942; lieutenant commander, May 22, 1939; and commander (temporary), August 30, 1942.

In June 1942, just prior to claimant's last promotion in grade, supra, the Department of the Navy instituted a "panel" system to review roster of names submitted by the Secretary for temporary promotions to commander and captain. Each panel member, who was one of a number of senior naval officers at both domestic and foreign duty stations selected by the Secretary, would review the roster of names and check off those names of eligible candidates who he felt were "qualified for temporary promotion."¹ Once the rosters were returned, the "votes" were tabulated and a composite list of nominees was prepared for the President's approval. Claimant, along with other line commanders, was considered for temporary promotion to the grade of captain by three such panels, convened during the following periods: August–November 1943; June–August 1944; and January–April 1945. Claimant failed to be nominated for promotion in all three instances.

At the close of 1945, the Navy utilized at least one "administrative board" in effecting promotions. That type of board, consisting of some 15 members (8 Regular Navy and 7 Naval Reserve officers), also considered commanders for temporary promotion to the grade of captain. Members of the Board, which convened in Washington, D.C., were furnished the names and records of officers (Regular and Reserve) eligible for such promotions and were instructed to recommend "only those officers who are considered qualified to assume the responsibilities of the higher rank."² In November–December 1945, one such board considered, but did not recommend, claimant for promotion.

By letter dated June 9, 1947, claimant petitioned the Secretary of the Navy for promotion, with the "lineal position" he would have occupied had he been nominated by the first panel, for "reasons of equity and justice as supported by the facts set forth" in his letter. His request was denied, in substance on the ground that, between 1943 and 1945, four duly constituted selection boards had considered his "name and official record" and had failed to recommend him and further that there was no evidence of unfairness or partiality in the history of the case.

Twice in 1950, once in January and again in October, claimant's eligibility for promotion was passed upon by statutory selection boards convened pursuant to the Officer Personnel Act of 1947, 61 Stat. 795, as amended. He was not selected for promotion by either Board and, in 1951, submitted his application for retirement in lieu of mandatory retirement which was accepted.

¹ It was never established whether panel members on foreign duty had regular access to complete personnel files for record review purposes. Rather, overseas panel members were "authorized to confer with a senior officers in two areas as desired in making your selections." *Rawlins v. United States*, 197 Ct. Cl. 972, 980 (1972).

² Rawlins, *supra*, n. 1, at 981–82.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL AND CLERICAL CORRECTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to H.R. 9370.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1566.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1566) entitled "An Act to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Foreign Intelligence Surveillance Act of 1978".

TABLE OF CONTENTS

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

- Sec. 101. Definitions.
- Sec. 102. Authorization for electronic surveillance for foreign intelligence purposes.
- Sec. 103. Jurisdiction.
- Sec. 104. Application for an order.
- Sec. 105. Issuance of an order.
- Sec. 106. Use of information.
- Sec. 107. Report of electronic surveillance.
- Sec. 108. Congressional oversight.
- Sec. 109. Penalties.
- Sec. 110. Civil liability.
- Sec. 111. Authorization during time of war.

TITLE II—CONFORMING AMENDMENTS

- Sec. 201. Amendments to chapter 119 of title 18, United States Code.

TITLE III—EFFECTIVE DATE

- Sec. 301. Effective date.

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

- Sec. 101. As used in this title:
 - (a) "Foreign power" means—
 - (1) a foreign government or any component thereof, whether or not recognized by the United States;
 - (2) a faction of a foreign nation or nations, not substantially composed of United States persons;
 - (3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;
 - (4) a group engaged in international terrorism or activities in preparation therefor;
 - (5) a foreign-based political organization

not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) "Agent of a foreign power" means—

(1) any person other than a United States person, who—

(A) acts in the United States as an officer, member, or employee of a foreign power; or

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life or property that are or may be a violation of the criminal laws of the United States or of any State, or that might involve a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve or may involve a violation of chapter 105 of title 18, United States Code, or that might involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) information that relates to and, if concerning a United States person, is necessary to the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to and, if concerning a United States person, is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) "Minimization procedures", with respect to electronic surveillance means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition, retention, and dissemination of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e) (1), shall not be disseminated in a manner that identifies any individual United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for the purpose of preventing the crime or enforcing the criminal law; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 102 (a), procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information may indicate a threat of death or serious bodily harm to any person.

(i) "United States person" means a citizen

of United States, an alien lawfully admitted for permanent residence (as defined in section 101(a) (20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a) (1), (2), or (3).

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 102. (a) (1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) communications exclusively between or among foreign powers, as defined in section 101(a) (1), (2), or (3); or

(ii) the acquisition of technical intelligence from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a) (1), (2), or (3); and

(B) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General shall report such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him.

(3) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a min-

S 14980

CONGRESSIONAL RECORD — SENATE

September 12, 1978

imum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished which such carrier wishes to retain. The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to a United States district court, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdiction to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) unless such surveillance may involve the acquisition of communications of any United States person.

JURISDICTION

SEC. 103. (a) The United States district courts shall have jurisdiction to receive applications for court orders under this title and to issue orders under section 105 of this title.

(b) Proceedings under this title shall be conducted as expeditiously as possible. If any application to the United States district court is denied, the court shall record the reasons for that denial, and the reasons for that denial shall, upon the motion of the party to whom the application was denied, be transmitted under seal to the United States court of appeals.

APPLICATION FOR AN ORDER

SEC. 104. (a) Each application for an order approving electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include—

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

(3) the identity, if known, or a description of the target of the electronic surveillance;

(4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;

(7) a certification or certifications by the Assistant to the President for National Security Affairs and an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

(E) including a statement of the basis for the certification that—

(1) the information sought is the type of foreign intelligence information designated; and

(i) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means by which the surveillance will be effected;

(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter; and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraph (6), (7)(E), (8), and (11) of subsection (a), but shall contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 105.

ISSUANCE OF AN ORDER

SEC. 105. (a) Upon an application made pursuant to section 104, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

(1) the President has authorized the Attorney General to approve applications for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: *Provided*, That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed

is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 101(h); and

(5) the application which has been filed contains all statements and certifications required by section 104 and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 104(a) (7)(E) and any other information furnished under section 104(d).

(b) An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith any and all information, facilities, or technical assistance necessary to accomplish the electronic surveillance unobtrusively and in such manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(c) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1), but shall generally describe the information sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

(d) (1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a) (1), (2), or (3), for the period specified in the application or for one year, whichever is less.

(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the

same manner as required for an original order, except that an extension of an order under this chapter for a surveillance targeted against a foreign power, as defined in section 101(a) (4), (5), or (6), may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

(3) At the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e) Notwithstanding any other provision of this title, when the Attorney General reasonably determines that—

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge having jurisdiction under section 103 is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information may indicate a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment; and

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

(A) it is not reasonable to—

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillances otherwise authorized by this title; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g) Certifications made by the Attorney General pursuant to section 102(a) and applications made and orders granted under this title shall be retained for a period of at least ten years from the date of the application and shall be stored at the direction of the Attorney General under security procedures approved by the Director of Central Intelligence.

USE OF INFORMATION

Sec. 106. (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of the provisions of this title shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e) and the Government concedes that information obtained or derived from an electronic surveillance pursuant to the authority of this title as to which the moving party is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding, the Government may make a motion before the court to determine the lawfulness of the electronic surveillance. The motion may not be heard by a judge who granted or denied an order or extension involving the surveillance at issue. Such motion shall stay any action in any court or authority to determine the lawfulness of the surveillance. In determining the lawfulness of the surveillance, the court shall, notwithstanding any other law, if the Attorney General files an affidavit under oath with the court that disclosure would harm the national security of the United States or compromise foreign intelligence sources and methods, review in camera the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials if there is a reasonable question as to the legality of the surveillance and if disclosure would likely promote a more accurate determination of such legality, or if such disclosure would not harm the national security.

(g) Except as provided in subsection (f), whenever any motion or request is made pursuant to any statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to surveillance pursuant to the authority of this title or to discover, obtain, or suppress any information obtained from electronic surveillance pursuant to the authority of this title, and the court or other authority determines

that the moving party is an aggrieved person, if the Attorney General files with the United States court of appeals an affidavit under oath that an adversary hearing would harm the national security or compromise foreign intelligence sources and methods and that no information obtained or derived from an electronic surveillance pursuant to the authority of this title has been or is about to be used by the Government in the case before the court or other authority, the Special Court of Appeals shall, notwithstanding any other law, stay the proceeding before the other court or authority and review in camera and ex parte the application, order, and such other materials as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court of appeals shall disclose, under appropriate security procedures and protective orders, to the aggrieved person or his attorney portions of the application, order, or other materials relating to the surveillance only if necessary to afford due process to the aggrieved person.

(h) If the court pursuant to subsection (f) or the court of appeals pursuant to subsection (g) determines the surveillance was not lawfully authorized and conducted, it shall, in accordance with the requirements of the law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court pursuant to subsection (f) or the court of appeals pursuant to subsection (g) determines the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Orders granting or denying motions or requests under subsection (h), decisions under this section as to the lawfulness of electronic surveillance, and, absent a finding of unlawfulness, orders of the district court or court of appeals granting or denying disclosure of applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except the court of appeals and the Supreme Court.

(j) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents may indicate a threat of death or serious bodily harm to any person.

(k) If an emergency employment of electronic surveillance is authorized under section 105(e) and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

- (1) the fact of the application;
- (2) the period of the surveillance; and
- (3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

REPORT OF ELECTRONIC SURVEILLANCE

SEC. 107. In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

- (a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and
- (b) the total number of such orders and extensions either granted, modified, or denied.

CONGRESSIONAL OVERSIGHT

SEC. 108. (a) On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this title. Nothing in this title shall be deemed to limit the authority and responsibility of those committees to obtain such additional information as they may need to carry out their respective functions and duties.

(b) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate may periodically review the information provided under subsection (a). If either such committee determines that an electronic surveillance of a United States person under this title has produced no foreign intelligence information and that the disclosure of the fact of such surveillance to such United States person would not harm the national security, such committee shall inform such person of the fact of such surveillance and that no foreign intelligence information was derived from such surveillance.

PENALTIES

SEC. 109. (a) OFFENSE.—A person is guilty of an offense if he intentionally engaged in electronic surveillance under color of law except as authorized by statute.

(b) DEFENSE.—It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

SEC. 110. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b) (1) (A), respectively, who has been subjected to an electronic surveillance or whose communication has been disseminated or used in violation of section 109 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

- (a) actual damages, but not less than liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater;
- (b) punitive damages; and
- (c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

AUTHORIZATION DURING TIME OF WAR

SEC. 111. Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods up to one year during a period of war declared by the Congress.

TITLE II—CONFORMING AMENDMENTS

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

SEC. 201. Chapter 119 of title 18, United States Code, is amended as follows:

(a) Section 2511(2) (a) (ii) is amended to read as follows:

“(ii) Notwithstanding any other law, communication common carriers, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire or oral communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if the common carrier, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

“(A) a court order directing such assistance signed by the authorizing judge, or

“(B) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No communication common carrier, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. No cause of action shall lie in any court against any communication common carrier, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of an order or certification under this subparagraph.”

(b) Section 2511(2) is amended by adding at the end thereof the following new provisions:

(e) Notwithstanding any other provision of this title or section 605 or 606 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

“(f) Nothing contained in this chapter, or section 605 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications by means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive statutory means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted.”

(c) Section 2511(3) is repealed.

(d) Section 2518(1) is amended by inserting “under this chapter” after “communication”.

(e) Section 2518(4) is amended by inserting “under this chapter” after both appearances of “wire or oral communication”.

(f) Section 2518(9) is amended by striking out “intercepted” and inserting “inter-

BEST COPY
Available

September 12, 1978

CONGRESSIONAL RECORD — SENATE

Approved For Release 2005/11/23 : CIA-RDP80S01268A000500040000-1

cepted pursuant to this chapter" after "communication".

(g) Section 2518(10) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after the first appearance of "communication".

(b) Section 2519(3) is amended by inserting "pursuant to this chapter" after "wire or oral communications" and after "granted or denied".

TITLE III — EFFECTIVE DATE

EFFECTIVE DATE

Sec. 301. The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act within ninety days following such date of enactment.

Amend the title so as to read: "An Act to authorize electronic surveillance to obtain foreign intelligence information."

Mr. ROBERT C. BYRD, Mr. President, I move that the Senate disagree to the amendments of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 12026 AT DESK

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that if and when H.R. 12026 is received from the other body, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 30 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:35 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, an-

nounced that the Speaker has signed the following enrolled bill:

S. 3107. An act to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. PAUL G. HATFIELD).

At 12:12 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has appointed Mr. THOMPSON, Mr. GAYDOS, and Mr. BUCHANAN on the part of the House as additional conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 11445, an act to amend the Small Business Act and the Small Business Investment Act of 1958, solely for the consideration of sections 117 and 118 (OSHA).

The message also announced that the House has passed the following bill with amendments in which it requests the concurrence of the Senate:

S. 1566. An act to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

At 1:08 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

H.R. 8112. An act to repeal chapter 27 of title 44, United States Code;

H.R. 9471. An act to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps; and

H.R. 12015. An act to amend section 2310 of title 44, relating to the National Archives Trust Fund Board.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. PAUL G. HATFIELD).

At 1:56 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill, without amendment:

S. 3454. An act to amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 12936, an act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. TRAXLER, Mr. BAUCUS, Mr. STOKES, Mr. BEVILL, Mrs. BOGGS, Mr. BURLISON of

Missouri, Mr. ALEXANDER, Mr. COUGHLIN, Mr. McDADE, Mr. of Florida, and Mr. CEDERBERG were pointed managers of the conference on the part of the House.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 12, 1978, he presented to the President of the United States the following enrolled bill:

S. 3107. An act to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy.

ORDER FOR STAR PRINT OF REPORT NO. 95-1175

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that a star print be made on the report on H.R. 2329, the Fish and Wildlife Improvement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-4296. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, September 1978; to the Committee on the Budget, the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on the Judiciary, the Committee on Human Resources, the Committee on Governmental Affairs, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Finance, jointly, pursuant to order of January 30, 1975.

EC-4297. A communication from the Director, Office of Legislative Affairs, Department of the Navy, reporting, pursuant to law, of the intention of the Department to donate certain surplus property to the Japanese Foundation for the Promotion of Maritime Science, Tokyo, Japan, a nonprofit educational organization under the jurisdiction of the Japanese Government's Ministry of Transportation; to the Committee on Armed Services.

EC-4298. A communication from the Secretary of Housing and Urban Development, reporting, pursuant to law, on the late submission of a report on the progress of states and units of general purpose local government in adopting and enforcing energy conservation standards; to the Committee on Banking, Housing, and Urban Affairs.

EC-4299. A communication from the Vice President, Governmental Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on (1) total itemized revenues and expenses; (2) revenues and expenses of each train operated; and (3) revenues and total expenses attributable to each railroad over which service is provided, for the month of May 1978; to the Committee on Commerce, Science, and Transportation.

EC-4300. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting,

Approved For Release 2005/11/23 : CIA-RDP80S01268A000500040000-1